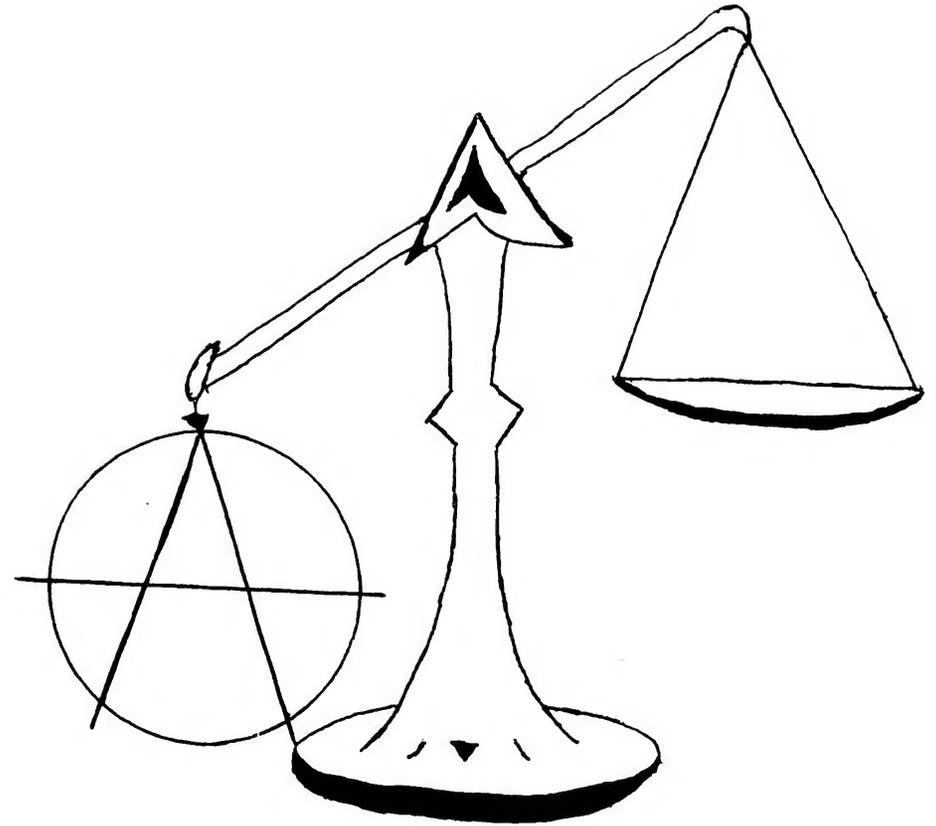


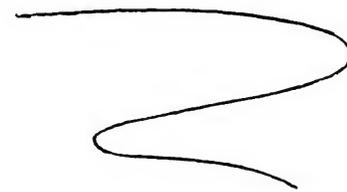


The Boston Anarchist Black Cross functions as the defensive arm of local anarchist struggles. We work to forge an organized support network for local activists in need and for folks behind bars. We seek the total abolition of prisons and work on projects in support of this cause.

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ANARCHISM AND LITIGATION



By Eric D. Smith (DANACHI)

Anarchism & Litigation

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Transcribed and edited by Anthony Rayson
Published on October 30th, 2007
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If we want to break the chains that government and the State shackles us in, then we must violently overthrow them. Article 1, Section 1 of the Indiana State Constitution does state that the people has an "indefeasible right to alter and reform their government", and I'm pretty sure other constitutions state the same or similar thing, so what are we waiting for? When is enough, enough?

In conclusion, litigating will only result in a few victories because the legal system is based upon opinion and prejudice, and not fact or equal justice. Every fact-finder is one that supports government and the State. The legal system; therefore, is truly a "system of adversaries." Until people are all granted the same privileges and immunities; until we are all treated as equals, the quest for unconditional freedom will continue, and we will never be truly free. As Michael Bakunin said:

"I am truly free only when all human beings...are equally free. The freedom of other men, far from negating or limiting my freedom, is, on the contrary, its necessary condition and confirmation."
Michael Bakunin, "God and the State."

Eric D. Smith (Danachi)
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EPILOGUE

Litigating will never be easy when challenging the State and government gang members because it is a tool created and operated by their own members, but sometimes we will win under certain circumstances. We must become aware of these circumstances to protect our rights and to weaken them. We can do this by placing them in Catch-22 situations.

The law is never clear and is applied inconsistently. The system was designed this way so the elite can remain the elite, so the privileged can be held immune for their violations, and so the privileged can obtain more privileges. How many times have we seen the rich escape serious consequences only to see the poor railroaded and severely punished? Little defeats are handed to the rich in other circumstances only so the system does not appear arbitrary.

Anarchism and litigation can co-exist, but protesting and issuing grievances today will never really change tomorrow. Protesting peacefully at the monument, White House or wherever, does not place fear in the State or government elite. After all, this is the right *they* say you have. The protest will only last a short time, and then they know you will be gone till next year.

In essence, you are being controlled and your true freedom is being limited. The only effective means to truly bring change about is the use of violence, and we must use violence toward these State and government gangs because it is the only thing they truly fear. No new laws are worth being passed, even if they seem good, because they are surely to be twisted and interpreted differently. The more laws we pass, the more controlled we become.

One way to break away from their oppressive and restricting chains is to become self-sufficient. For example, we can grow our own vegetables in our back yard, we can fish for meat, and we can replace nuclear energy with solar power or wind energy. There are thousands of books out there that can teach us these things – if we would only read them!

Working together, we can build a community that needs no reliance on any capitalist company or government institution. With our science and technology today, always advancing, there is no reason for poverty, lack of health care, or denial of basic human needs. Moreover, incarcerating millions and millions of men and women is not keeping society safe; rather it is making things worse in numerous ways, and punishments for violations of law has not had any deterrent effects on future violations (15)

Incarceration and punishment; therefore, only exist as a tool to help perpetuate the controlling classes own existence, e.g. creating jobs for them – allowing more taxes to be collected from wages. This is particularly true because law enforcement was not in existence until 1829! America went 235 years from the first day of European colonization without a single police force. New York got its police force in 1844. (16) Its just hard to imagine that things would be so out of control without the police than what they are with them.

(15) This has long been noted. See: Peter Kropotkin, "Prisons and Their Moral Influence on Prisoners" (The Books 4 Prisoners Crew) (2004).

(16) See: Clair Wolfe, "Don't Shoot the Bastards Yet: 101 More Ways to Salvage Freedom", p. 36 (Loompanics Unlimited) (1999).

Anarchism and Litigation

By Eric D. Smith (Danachi)

INTRODUCTION

This publication is designed, and is intended to, educate and help those of us who are being violated by governmental entities concerning anything to do with anarchism and expressing anarchist views. Are you trying to obtain reading material concerning anarchism, and prison officials are prohibiting such things? Are you being coerced or prevented from writing or otherwise expressing your anarchist beliefs? If you are a person facing a situation like this, then this publication is for you. I have some expertise with such problems, and currently, I am awaiting a civil trial concerning a lawsuit I filed against two Indiana state prison officials who confiscated my anarchist writings in the summer of 2003.

In 2001, I was convicted of nine counts of arson as a class B felony and one count of conspiracy to commit arson as a class B felony. An apartment had caught fire, starting on the back porch away from the building, and spread to other units. All-in-all, twelve townhouse apartments were destroyed. No one died or got hurt, I had never been convicted of anything in my life, and even though the charges concerned non-violent activity, the penalties ran concurrently (together). I was sentenced to the maximum term of twenty years in prison when probation could have been given. I am totally innocent of the fire: I had alibis, known by everyone and subpoenaed to my trial, who my attorney never called upon to testify in support of my defense.

My alleged co-conspirator had made three different taped statements before my trial and had my attorney done what I asked him to, I would have been able to prove the alleged co-conspirator had perjured himself and that the fire investigator and prosecutor had presented false evidence and testimony at my trial in order to railroad me.

They wanted to make my alleged co-conspirator's testimony seem credible, so when the alleged co-conspirator had stated he and I went to Wal-Mart on February 23rd, 2001 and bought fire logs for the arson, the fire investigator and prosecutor presented a photograph of something they alleged was a fire log that they had recovered from the debris of the fire. (1) I now have evidence from Wal-Mart, showing the fire log was never bought. I am currently using this evidence and my missing alibi testimony to challenge my convictions and sentence, and hopefully I will obtain a new and fair trial. I am only in prison now due to the ineffective assistance of my public defender. I, however, believe there *was* a conspiracy against me because the arson was a high profile case in Indianapolis, Indiana.

The wrongful conviction totally ruined my life and has changed me many ways. Some good. Some bad. It is only my hatred of the State of Indiana and government that keeps me going. The battle against oppression, in its every form, gives me hope and helps keep me passionate with my dreams of unconditional freedom.

(1) This alleged fire log wasn't mentioned in the fire report and it was never forensically tested or physically produced at my trial. Moreover, in my alleged co-conspirator's second inconsistent statement, he told police detectives that he didn't know what was used in the fire.

In 2003, I became an Anarchist. I had gotten my hands on some Anarchist literature and I became convinced that the government should be abolished. My personal experiences reinforced these new beliefs. The funny thing about all this is that, beforehand, I was a specialist in the United States Army Reserves, serving as a personal service specialist for the Eighth United States Army.

The Army betrayed me; however, and while I was rotting in jail awaiting my trial, the Army did nothing to help me. In fact, after I was wrongfully convicted, the Army took all my rank away and tried to give me a dishonorable discharge. After a long fight, in August 2004, I managed to receive an honorable discharge.

I served well in the Army and for them to abandon me and try to ruin my military career, left a bad taste in my mouth. It became quite clear that the Army's soldiers were, and are, expendable. But I'm glad I'm out. I'll never be their pawn again!

Searching for ways to obtain money to hire an attorney to help exonerate me in my arson conviction, I decided I was going to write a book on the ideologies and theories of anarchism. The book was to be entitled, 'A' for Anarchy. While at the Indiana State Prison located in Michigan City, Indiana (far Northwest Indiana) in June or July, 2003, I began my book writing. I had completed two documents to be included in the book's Appendix. These documents were titled, *Anarchist World Council Constitution* and *The Doctrines of the Anarchist World Council*. The point of these documents was to help identify and recognize real non-authoritarian anarchist groups (groups that do not believe in absolute authority) as opposed to so-called anarchist groups who are, in fact, authoritarian (the belief of absolute authority and loyalty to authority).

Because I had no money to pay the copyright fee, which was \$35.00 at the time, I sent the documents off to the prison counselor for him to notarize in order to protect my writings from unauthorized publication and library theft. The prison officials confiscated the writings, stating they were "security threat group" ("STG") material, and coerced me not to write anything else about the Anarchist World Council by telling me I would be punished. The writings were non-violent, nor obscene, threatening or graphic. How my writings were considered to be STG material was beyond my understanding. So, after filing all my prison grievances by filing the appropriate prison forms, I filed a 1983 Prisoner Civil Rights Complaint. (2) Based on my particular issues and facts, I claimed that the two prison officials violated my First and Fourteenth Amendment rights to the United States Constitution. See: *Smith v. Carraso*, 334 F. Supp. 2d 1094 CN-D. Ind. 2004).

Don't Anarchists hate the judicial system? The answer is yes. Well, how can they use it? Well, in my case, it is the only thing I can use to protect myself while being in prison. Also, it becomes a Catch-22 for the judicial system too, because all U.S. citizens have the right to believe what they want, and can only be punished for expressing that right if that right is being abused. If the courts rejected my claims, then it proves itself to be a hypocrite and becomes the State's equal. This would make lovely propaganda for Anarchists.

Most importantly; however, using the judicial system against the government helps destroy the government. Think about all the costs and time that the lawsuit would cost, even if I lost the lawsuit. These costs and the time taken to litigate the lawsuit, especially if all prisoners took the course of action by suing prison and government officials, will affect the budget of the government. This means that changes will be made: good ones or bad ones. If bad ones are taken, then maybe this will help demonstrate that the government indeed has oppressive intentions and that a revolution is necessary to emancipate the people. If good changes are made, then we become some steps closer to freedom.

In prison, using the judicial system is the best way to protect ourselves. Although a riot may occur in a prison setting, a revolution never will. There's a difference between the two: a riot is something lasting a short time and it usually only involves a few select individuals. A

V.

Conclusion

For the foregoing reasons, plaintiff's motion for summary judgment should be granted.

Respectfully submitted,
(Signature)

Eric D. Smith
(Address)

Certificate of Service

I certify that a copy of the foregoing has been duly served upon the defendant's counsel, by depositing the same in the U.S mail, first-class, postage pre-paid, on or around the date of filing.

(Signature)

Eric D. Smith,
Certifier

Once you file your motion, the defendant will respond. Remember though, that if your defendant also files a motion for summary judgment, you must also file an answer to its motion like it answered yours. (14)

When everything is filed, all you have to do is to wait and see what happens next. If your case goes to trial, you should request that an attorney represent you by writing an attorney for representation. If you cannot obtain an attorney yourself, explain this to the court, and file a motion for appointment of counsel with the court pursuant to 28 U.S.C. s5 1915. If you are not appointed an attorney by the court, and you lose your case at trial, you can appeal the denial of counsel as a reason for a new trial with your respective court of appeals. The argument you will make is that the court abused its discretion by denying the appointment of counsel because its decision goes against the logic and circumstances put before it.

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P.O. Box 721 / Homewood, IL 60430

(2) This suit is governed by federal law. See: *42 U.S.C. s% 1983*. ou can get a copy of this federal statute from your law library.

(14) See: *John Boston and Daniel E. Manville, "Prisoners' Self-Help Litigation Manual, 3rd Edition"* pp. 571 (Oceana) (1995). Fourth edition of this book is now available.

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"But even advocacy of violation however reprehensible morally, is not a justification for denying free speech where the advocacy falls short of incitement and there is nothing to indicate that the advocacy would be immediately acted on. The wide difference between advocacy and incitement, between preparation and attempt, between assembling and conspiracy, must be borne in mind. In order to support a finding of clear and present danger it must be shown either that immediate serious violence was to be expected or was advocated, or that the past conduct furnished reason to believe that such advocacy was then contemplated."

Whitney v. California, 274 U.S. 357 (1927) (Brandeis, J., concurring). See also: United States v. Lovett, 328 U.S. 303 (1946).

Defendant Doe violated Smith's First Amendment rights.

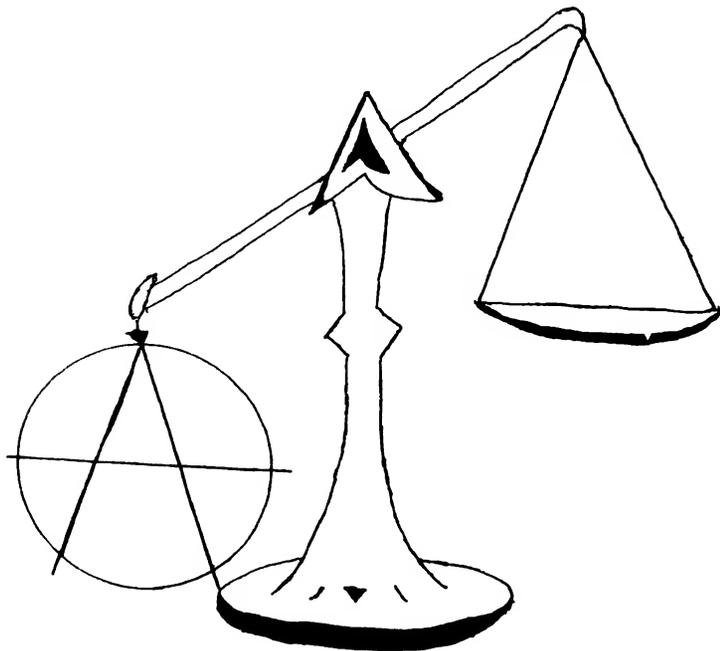
2. Doe's actions violated the Fourteenth Amendment.

Prisoners do not forfeit all equal treatment rights upon incarceration; however, practices that result in equal treatment among prisoners are permissible if the practice bears a rational relation to a legitimate penal interest. See: Lee v. Washington, 390 U.S. 333, 333 - 34 (1968).

Here, even looking in favor of the defendant, plaintiff is still entitled to judgment as a matter of law because the test in analyzing an equal protection claim falls in his favor.

The facts show that other similarly situated prisoners have been treated differently because they have been allowed to obtain and possess anarchist and other political materials. There is also no rational relation between the dissimilar treatment and any legitimate penal interest. In such situations, the Fourteenth Amendment has been held to be violated. See: Williams v. Lane, 851 F. 2d 867, 881 - 82 (7th Cir. 1988); Thomas v. Gunter, 32 F. 3d 1258, 1260 (8th Cir. 1994).

Accordingly, defendant Doe has violated the Fourteenth Amendment.



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revolution involves every person. It is fought with more feelings and thought. It is more calculated and violent.

A revolution will never occur in prison because the prisoners are too disorganized, too distracted by other beliefs and too uneducated. Many will be in prison only for a short time, so loyalty to a cause or person is hardly ever established. Simply put: prisoners in most cases are too self-centered. Undercover informants and prison snitches also interfere with the progress of prison emancipation.

Just use the judicial system to help protect yourself and to question authority. Using violence will only be like putting your head on the chopping block and this is what they want. They want this because it destroys you, not them.

I hope this publication helps you.

'A' for Anarchy,

Eric D. Smith

July 2, 2007

Chapter 1 Facing the Problem

If you're going to resolve a problem with the prison officials, communicate with them. A lot of prison officials censor anarchist materials, and I've read that this happens a lot down south in the U.S. The reasons why the prison officials prohibit your anarchist materials, even though they never admit it, is because they fear and detest the ideologies and theories of anarchism. Albert Meltzer, a British anarchist who died May 7th, 1996, explains it the best:

"Those who use the word 'Anarchy' to mean disorder or misrule are not incorrect. If they regard government as necessary, if they think we could not live without Whitehall directing our affairs, if they think politicians are essential to our well-being and that we could not behave socially without police, they are right in assuming that anarchy means the opposite to what government guarantees.

The prison officials confiscate your anarchist materials because they regard government as necessary. They are part of the government, but remember how Meltzer finishes:

"But those who have the reverse opinion and consider government to be tyranny, are right too, in considering anarchy (no government) to be liberty. If government is the maintenance of privilege and exploitation and inefficiency of distribution, then anarchy is order."⁽³⁾

And this is what you should communicate to the prison officials. Also, find out exactly why your materials were confiscated. Communicating that your materials are your political beliefs, and knowing exactly why your materials were confiscated, will tremendously aid you in the process of obtaining your confiscated materials. Remember; however, that you should immediately file a prison grievance, if they claim them to be "possible security-threat-group material."

⁽³⁾ Albert Meltzer, "Anarchism: Arguments for and Against", pp. 20-21 (AK Press 1996) *Emphasis in original.*

They then forwarded my writings to the STG Coordinator, Ralph Carrasco. Sgt. Carrasco then determined that my writings may intimidate others, and deemed them STG material; however, according to the Indiana Department of Corrections policy no. 02-03-105, section VI, there were three criteria that had to be met for a prisoner to be identified as an STG member. My writings arguably met only one of the criteria. Knowing this, I filed my prison grievances in order to exhaust my administrative remedies.

At the time, there were five steps to the grievance process. After receiving the third response, which was negative, I tried to obtain the fourth step; however, the prison grievance officer would not respond to my requests, so I filed the lawsuit in federal court. *So, was the lawsuit dismissed for failing to exhaust state remedies?* No. because the prison officials wouldn't let me.

Federal courts have ruled that the requirement of complying with state procedural rules may be excused when government officials interfere with the prisoner's ability to follow those rules. See: Murray v. Carrier, 477 U.S. 478, 488 (1986). Moreover, when a prisoner takes substantial steps to comply with the grievance procedure, exhaustion is satisfied. See: e.g. Nyhuis v. Reno, 204 F.3d 6s (3d Cir. 2000).

Additionally, a prisoner cannot fail to exhaust remedies in a grievance procedure when prison officials tell such prisoner that there are no appeals. See: e.g. Miller v. Tanner, 196 F. 3d 1190 (11th Cir. 1999).

You see, prison officials usually do things like this in order to defraud a court, calculated to get the lawsuit dismissed. The failure to exhaust administrative remedies must be raised as an affirmative defense by the prison officials. See: e.g. Wyatt v. Terhure, 315 F. 3d 1108 (9th Cir. 2003).

However, a lot of the federal courts these days are getting away from this, holding that they can dismiss the complaint, without the defendants raising anything, if the prisoner does not demonstrate exhaustion of remedies in the lawsuit. See: e.g. Brown v. Toombs, 139 F.3d 1102 (6th Cir. 1998)

So if this happens to you, make sure you explain exactly why you could not exhaust all the steps or why you could not (in a timely manner) file the steps to the grievance process. If you are still denied your materials, you will have to file a lawsuit to get them back.

Chapter 2 Going State or Federal

If you're in Indiana, you definitely should go federal. Reason being, is that the federal courts here have already held that when prison officials confiscate anarchist materials that do not pose a clear and present danger to the safety and security of the prison, that the First Amendment claim against them may proceed. See: Smith v. Carrasco, 334 F – Supp 2d 1094 (ND. Ind. 2004).

If you read this case law, you'll see that I also alleged that the prison officials' actions also violated my state rights. The federal court refused to hear these claims, dismissing the state claims without prejudice so I could bring them up in the state courts. Well, when I did, and made it perfectly clear that the writings did not pose a threat to the safety and security of the prison, the state court held that my state constitutional rights were not violated because my lawsuit was frivolous as anarchism does pose a threat to the safety and security of the prison.

4. Smith filed a grievance and exhausted all his administrative remedies, and in the responses to these grievances, Doe stated the materials would not be given to Smith because they posed a threat to the safety and security of the prison, and that the materials were considered security-threat-group material. 23

5. The anarchist materials are simply political. They discuss the ideologies and theories of anarchism and they do not pose a threat to the safety and security of the prison. The material is not violent, obscene or graphic and they met the guidelines required by the DOC. The material does not meet the criteria for it to be considered security-threat-group material as stipulated by DOC policy.

6. Other similarly-situated prisoners are allowed similar materials, and Smith is being treated differently than those prisoners.

7. Smith has suffered a loss of more than \$25.00, and is being unable to associate with then distributor and exercising his First Amendment rights.

III Summary Judgment Standard:

Summary judgment is to be granted if the record before the courts shows "that there is no genuine issue as to any material fact that the moving party is entitled to a judgment as a matter of law." Rule 56 (c), Fed. R. Civ. P. In determining whether there is a genuine issue of material fact, the court must view all facts and all reasonable inferences in favor of the non-moving party. Matushita Electric Industrial Co., Ltd. V. Zenith Radio Corp. 475 U.S. 574, 587 (1986). However, this court cannot decide disputed facts or access to credibility on a summary judgment motion. Wilson v. Williams, 997 F. 2d 348, 350 – 51 (7th Cir. 1993); Titran v. Ackman, 893 F. 2d 145, 147 (7th Cir. 1990).

IV Analysis

1. Doe's actions violated the First Amendment. Viewing all facts and reasonable inferences in favor of the defendant, one would have to consider whether the confiscation of Smith's anarchist materials was within the constitutional authority under O'Lone v. Estate of Shabazz, 482 U.S. 342 (1987), and Turner v. Safley, 482 U.S. 78 (1987). But the facts presented in this case shows that Doe's actions were unconstitutional.

Prisoners may have a wide range of philosophical beliefs. See: Childs v. Duckworth, 509 F.Supp. 1254 C.N.A. Ind. 1981), aff'd, 705 F. 2d 915 (7th Cir. 1983). Confiscating anarchist materials that pose no threat states a First Amendment claim. See: Smith v. Carrasco, 334 F. Supp. 2d 1094 C.N.D. Ind. 2004). This is particularly true because prison officials cannot confiscate materials solely because they are philosophical, political, or because its content is unpopular or repugnant. Thornburgh v. Abbott, 490 US. 401, 414 – 19 (1989). The defendant obviously confiscated the materials on this basis, because the facts show that the materials did not pose a legitimate threat to the safety and security of the facility.

Anarchist materials do not pose a threat to the prison environment. Constitutional historians have said Justice Holmes labeled anarchism "silly but harmless." See: G. Edward White, "Justice Oliver Wendell Holmes: Law and the Inner Self", pp. 441 – 445 (Oxford University Press) (1993). Even if the materials advocated violations, such is not a justification for prohibiting such materials:

Certificate of Service

22

I certify that a copy of the foregoing has been duly served upon defendant's counsel, by depositing the same in the US. Mail, first-class, postage pre-paid, on or around the date of filing.

(Signature)

Eric D. Smith,
Certifier

United States District Court Northern District of Indiana

Eric D. Smith,)
)
Plaintiff,)
)
v.)
) Cause no. 3:07 - xx - xxxx
John Doe,)
)
Defendant.)
)

Memorandum of Law In Support of Summary Judgment

Comes now the plaintiff, Eric D. Smith, in pro se, presenting his memorandum of law as follows:

I. Introduction

This is a 42 U.S.C. s5 1983 prisoner civil rights complaint. Eric D. Smith alleges that John Doe violated his First Amendment rights by confiscating Smith's anarchist materials mailed to him from a legitimate distributor. Smith now moves for summary judgment.

II. Plaintiff's Statement of Material Facts not in Dispute:

The complaint and declaration of Eric D. Smith show the following:

1. That Smith is a prisoner at the Bush Correctional Facility.
2. While there he ordered some anarchist materials from a legitimate distributor, and the distributor sent him the materials from the U.S. mail.
3. On August 1, 2003, a mail clerk confiscated the materials as ordered by defendant Doe.

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I appealed, arguing that my lawsuit was not frivolous because it had an arguable basis in law and fact; however, the Indiana Court of Appeals ruled otherwise because of the "volatile topic" of the papers. See: Smith v. Carrasco, 850 N.E. 2d 468 (Id. Ct. App. 2006).

This decision is wholly erroneous and conflicts with the federal opinion concerning my federal lawsuit. It also conflicts with the logic of Indiana Supreme Court precedent that the State constitution must be "strictly construed." See: Hillman v. State, 234 Ind. 27, 123 N.E. 2d 180, 182 (1954). I tried to petition to the Indiana Supreme Court in order to get the decision overturned, but the prison officials purposely transferred me to a different prison and denied me all my legal materials so I'd miss my deadline date to file the petition. In Indiana, you cannot file a late petition to transfer, even if prison officials interfere, and because I could not do so, this is the only reason why the wrongfully decided Indiana Court of Appeals decision stands to day. The federal rules of civil procedure are more prisoner-friendly than state rules of civil procedure. This is the most compelling reason to file your lawsuit in a federal court verses a state court. The federal judges appear to be more reasonable as well, not giving complete deference to the state officials as the state courts most certainly will.

The only benefit of filing a lawsuit in a state court is that the filing fee required to file a lawsuit may be cheaper than the \$350.00 fee in federal court, and if you're indigent and can in no way afford to pay a fee, then some states (like Indiana) may waive the fee entirely, meaning that you won't ever have to pay for anything; and the state courts won't put a hold on your prison account like the federal courts do if you're indigent and proceeding in forma pauperis.

Your law library should have blank forms for you to fill out if you cannot afford to pay a filing fee, but review your state laws regarding these procedures. (5)

If you feel your state courts will be fair, then file your lawsuit in state court, but be warned: I believe these state laws waiving filing fees were created to lure a prisoner in a state court so it can better protect its state counterparts, calculated to shield the state officials from liability. The Irish anarchist newspaper helps paint a picture:

"The supposed system of justice amounts to a closed caste of judges and legal professionals. These are initiated into a targeted web of complex rules and regulations, where any concept of justice or fair play intrudes purely randomly."

Irish Anarchist Newspaper, Workers Solidarity no. 37.

Chapter 3 Drafting your Lawsuit And Stating A Claim

When prison officials or other governmental entities confiscate and prohibit anarchist materials, there are only two possible claims to sue under: The First

(5) In Indiana, the state procedures that govern the waiver of filing fees are in Indiana Code f33-19-3-2.5(d) and (e).

Amendment and Fourteenth Amendments to the United States Constitution of the United States of America. (6)

The First Amendment forbids actions and laws "abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances." U.S. Const., Amendment I. Technically, the First Amendment only restricts Congress, but the First Amendment has long been interpreted to forbid restrictions of free speech by all agencies of government. See: Fiske v. Kansas, 274 U.S. 380, 386-87 (1927).

The Fourteenth Amendment forbids a state to "deny any person within its jurisdiction the equal protection of the laws" and its due process clauses prohibit prison officials from depriving you of "life, liberty, or property without due process of law." U.S. Const., Amends V, XIV. The Fifth Amendment's Due Process clause only applies to federal officials; the Fourteenth Amendment applies to state and local officials. The Fifth Amendment requires the federal officials to obey the same equal protection standards as the states. See: Weinberger v. Wiesenfeld, 420 U.S. 636, 638 n. 2 (1975).

Drafting your lawsuit and stating a claim is vital. If you do it incorrectly, the courts will dismiss your lawsuit after they review it. Your law library should have a blank 42 U.S. ss1983 Prisoner Complaint form that will guide you in drafting your lawsuit. If they don't, you can write the local American Civil Liberties Union chapter in your state, and request that they provide you with one. Otherwise, you'll have to hand-write the lawsuit yourself.

Each lawsuit should have the following sections listed in it, separated by labeling each section with a different Roman numeral number. The lawsuit should contain these sections:

I. Introduction (This section will be listed on the front page of the lawsuit below the caption. The caption is the part of the lawsuit that lists the court's name at the very top center of the front page; that lists your name versus all the defendants who you are suing (7), e.g., "Eric D. Smith v. David Miller and Ralph Carrasco"; and that has a blank line across from the title of the lawsuit where the Clerk of the Court will use to write in the assigned case or "cause" number. (8) When writing your Introduction, briefly explain in a paragraph what your lawsuit is about and the type of relief that you are seeking).

II. Jurisdictional Statement (This section will cite the federal statutes and laws as to why the court has subject-matter jurisdiction over the claims you raise. You would simply write:

1. The court has jurisdiction over the plaintiff's claims of violation of federal constitutional rights under 42 U.S.C. s5 1331 (2) and 1343).

(6) If you are serving time in a federally run prison or federal entities are withholding your materials, you'd sue them under the First and Fifth Amendments.

(7) When you sue somebody, this somebody must be an actual person. You cannot list a Department of Corrections or State as an actual defendant. If you don't know their name, refer to them as John or Jane Doe.

(8) Once you find out what the number is, you will use it and the same caption information on every document you file with the court.

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Declaration of Eric D. Smith

Comes now the plaintiff, Eric D. Smith, first being duly sworn upon his oath and being a competent witness, basing this declaration on his personal knowledge, deposes and says:

1. On August 1, 2003, I received a notice from Jenna Elektra, the mail room clerk of the Bush Correctional Facility, stating that my anarchist books and publications I had ordered from a legitimate book publisher distributor and publisher was confiscated. I later found out that defendant John Doe had ordered Elektra to confiscate my materials when I received my response to the prison grievance I filed, which is required in order to exhaust administrative remedies

2. John Doe stated that the reason why the materials were confiscated was because they posed a threat to the security and safety of the prison, and that they were considered security threat group material.

3. The materials that were confiscated were not a threat to the security and safety of the prison. After I reviewed the security-threat-group policy, my materials did not meet the criteria for them to be connected to the security-threat-group.

4. The materials that were confiscated were simply political materials. They discussed the ideologies and theories of anarchism, were not violent, obscene or graphic. Moreover, the books were soft-backed and stapled pamphlets. They met the book requirements mandated by DOC policy, and they were mailed directly from the book publisher and distributor, but are being prohibited.

5. I know other prisoners who have received similar anarchy materials through the mail, and other prisons who are similarly situated to me, have received similar political materials through the mail.

6. The confiscation caused me the loss of my materials, which I paid \$25.00 for, not including the postage I spent to obtain my anarchist materials. The confiscation has prevented me from associating with the distributor and exercising my First Amendment rights.

7. I affirm under the penalty of perjury, pursuant to 28 U.S.C. s5 1746, that the above representations are true.

Dated: (Date of writing)

Respectfully Submitted,
(Signature)

Eric D. Smith
(Address)

United States District Court
Northern District of Indiana

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Eric D. Smith,)
Plaintiff,)
)
v.) Cause No. 3:07 - xx - xxxx
)
John Doe,)
Defendant.)

Motion For Summary Judgment

Comes now the plaintiff, Eric D. Smith, in pro se, pursuant to rule 56, Fed. R. Civ. Pr., requesting this court to enter a summary judgment in his favor for the following reasons:

1. There are no genuine issues of material fact, and plaintiff is entitled to judgment as a matter of law
2. In support of this motion, plaintiff simultaneously files his declaration.
3. In support of this motion, plaintiff simultaneously files his memorandum of law.

Wherefore, plaintiff in pro se prays that this court grant summary judgment in his favor and against the defendant, and grant all other relief deemed just and proper by the court.

Respectfully Submitted,
(Signature)

Eric D. Smith
(Address)

Certificate of Service

I certify that a copy of the foregoing has been duly served upon the defendant's counsel, by depositing the same in the U.S. mail, first-class, postage pre-paid, on or around the date of filing.

(Signature)

Eric D. Smith
(Address)

9

III. Parties (this section will tell you the court who you are and who the defendants are. You will also tell the court that you are suing the defendants in their "individual and official capacity.").

IV. General Factual Allegations (This section will be used to state all the elements required by 42 U.S.C. s5 1983 that the defendants violated, which will make them liable in a lawsuit. This will also allow you to write less when you state the facts of your case. The general factual allegations that you will write will be:

1. At all times relevant to this complaint, defendants, while acting under the color of state law, maliciously and with deliberate indifference, caused and subjected me to deprivations of my First and/or Fourteenth Amendment rights without any legitimate reason for doing so).

V. Facts (This section will explain in detail what you believe about anarchism, what was done and said by the defendants and any other fact that will tell the story of how you feel your rights were violated. State all the who's, what's, where's, when's, why's and how's. If you have to write more than any of the space provided by the blank forms, it is okay to use extra sheets of paper).

VI. Claims for Relief (This section will state why you feel the defendant's actions violated your First and/or Fourteenth Amendment rights, e.g.:

1. Defendant's actions violated my First Amendment rights because they unreasonably restricted my freedom of speech by confiscating my personal writings that in no way strained prison resources, contributed to unrest among the prison population, or enhanced my stature as a prisoner, resulting in danger to myself or others. My writings posed no threat to the safety and security of the prison, they contained no fighting or obscene words, and they were not graphic or violent. The defendants actions go against the logic of Turner v. Safety, 482 U.S. 78, 90 (1987), and the confiscation of such anarchist materials states a First Amendment claim. See: Smith v. Carrasco, 334 F. Supp. 2d 1094 (N.D. Ind. 2004).

2. The defendant's actions violated my First Amendment rights to receive publications in the U.S. mail because the confiscation of my anarchist publications was unreasonable, and the confiscation was done solely because the publication was philosophical, political or because its content is unpopular or repugnant. This is particularly true because the content of my publication posed no threat to the safety and security of the prison, and the publication came from a legitimate distributor.

The defendant's actions go against the logic of Thornburgh v. Abbott, 490 U.S. 401, 414-19 (1989), and confiscation of anarchist materials states a First Amendment claim. See: Smith v. Carrasco, 334 F. Supp. 2d 1094 (N.D. Ind. 2004).

3. The defendant's actions violated my Fourteenth Amendment rights (or Fifth Amendment rights if you're a federal prisoner) because I was denied equal protections of the law, and I was treated differently than other similarly-situated

Chapter 6 Moving For Summary Judgment

While you're waiting for the defendants to file their answer to your lawsuit, you need to prepare for summary judgment. You will have to do this anyway, because if they do not file a motion to dismiss your lawsuit or their own motion for summary judgment as an answer, and you let the case sit, your lawsuit will be dismissed for failure to prosecute. Remember: Since you are the plaintiff, the burden is on you to prosecute the claims. Moving for summary judgment does this, and the motion will allow the court to determine if a victory is warranted without a determination having to be made by a jury.

In order to win a summary judgment, you must show that there is no genuine issue of material fact as to each element of your legal claim, and that you are entitled to judgment as a matter of law. To do this, you will file a formal motion for summary judgment, a sworn declaration that states the facts based on your personal knowledge, and a memorandum of law in support of your motion for summary judgment.

If the defendants don't respond, you will win, but if they dispute your factual allegations, then the judge should deny your motion for summary judgment, holding a trial to determine the facts. The defendants may also file a motion for summary judgment as well. If they do, you must then respond to their motion just as they disputed your motion for summary judgment.

Rule 56 (e) of the Federal Rules of Civil Procedure requires a person disputing facts "must set forth specific facts showing that there is a genuine issue for trial." Legal conclusions or opinions are not enough. Your disputes must be facts.

For example: Say the defendants file a sworn declaration, stating that your anarchist materials were confiscated because they encouraged the use of violence. To dispute this, you would file a sworn declaration, stating that the materials did not encourage the use of violence. You should then state what the materials stated, if you can.

If you or other witnesses submit declarations disputing the material facts alleged in the defendant's motion, the court should not grant summary judgment for the defendants. See: e.g. Wilson v. Williams, 997 F. 2d 348, 350 – 51 (7th Cir. 1993). Any factual presentation must be complete enough to show that there is a genuine issue of material fact as to each point on which you bear the burden of proof needed to win your lawsuit. See: Celotex Corp. v. Catrett, 477 U.S. 317, 322 – 23 (1986).

Sometimes, prison officials and their attorneys move for summary judgment without submitting an adequate evidentiary basis for it. If they fail to establish the necessary facts in the manner required by rule 56, you should ask the court to deny their motion for summary judgment on that ground. In particular, federal courts have held that prison officials who argue that a prison rule or practice should be upheld as reasonably related to legitimate penological objectives must submit evidence to that effect, and not just argument. See: Walker v. Sumner, 917 F. 2d 382, 386 – 87 (9th Cir. 1990); Hunafa v. Murphy, 907 F. 2d 46, 48 (7th Cir. 1990); Swift v. Lewis, 901 F. 2d 730, 731 – 32 (9th Cir 1990); Pressley v. Brown, 754 F. Supp. 112, 117 (W.D. Mich. 1990).

Following this page are examples of how to draft your summary judgment motion, declaration, and memorandum of law, which uses real cases and other authorities to persuade a court to rule in your favor.

prisoners who are allowed to receive similar publications in the U.S. mail or who write similar beliefs as I do. The defendants' actions bear no rational relationship to a legitimate governmental purpose, and their actions are not substantially related to the achievement of important governmental objectives. As such, the defendants' actions go against the logic of Bankers Life & Casualty v. Crenshaw, 486 U.S. 71, 81 (1988) and Mississippi University for Women v. Hogan, 458 U.S. 718, 724-25 (1982).

Stating a Due Process claim is a little trickier, but remember that if you are given a fight by the State, even though it is not a right guaranteed by the federal constitution, the "arbitrary" denial of that state right violates the Fourteenth Amendment. See: American Ry. Express v. Kentucky, 273 U.S. 269, 273, (1927). You should try to research any claims you have concerning any actions that would deny you due process of law. (Remember as well that the Fifth or Fourteenth Amendment claims concerning unequal protection of the law are different and separate claims than Fifth or Fourteenth Amendment claims concerning due process).

VI. Relief Requested (This section will request the court to award you with certain relief such as the court to issue declarations, injunctions, award you costs of the filing fee and other costs of litigation against the defendants, and award you compensatory and punitive damages against each named defendant. You should request a jury trial, too.)

Once your lawsuit is drafted, ask the law library how many copies you need, and all the forms and documents that you must mail to the court with your lawsuit. Once you receive everything, and everything is filled out, keep one copy of everything you're sending to the court; and mail everything else out to the court. In about a couple of weeks, you will then hear something from the court, and the pains of prosecuting your case will begin.

Chapter 4 Watch Out for Dirty Tricks And Retaliatory Actions

Once you pursue litigation against the government, you will see, and better realize, how oppressive government is, and some of their ulterior motives to oppress and harm you may come to light. It certainly did with me.

Having the opportunity to have read some great anarchist literature, I cannot help thinking how similar my life was to that of Michael Bakunin.

Michael Alexandrovich Bakunin was born on May 18, 1814 and died at noon on July 1, 1876. (9) He held many political beliefs, but became an anarchist between 1864 and 1867 while he lived in Italy (Bakunin was not Italian, but Russian). This period marks his "transition from revolutionary nationalism to the mature revolutionary anarchism expounded by him toward the end of his eventful life." (10)

(9) See: Sam Dolgoff, "Bakunin on Anarchism". Pp. 23, 51 (Black Rose Books) (2002).

(10) *Ibid.* pp. 73.

respect 'law and order'; teaching him obedience, submission and unquestioning faith in the wisdom and justice of government. Above all, loyal service and complete self-sacrifice when the state commands it, as in war." 18

Sean Swain, "Application of Anarchist Theory to the Modern- Day Prison Struggle", p. 4, quoting Emma Goldman (South Chicago ABC Zine Distro; Publisher and Distributor; P.O. Box 721; Homewood, IL 60430) (2007)

The only thing these wealthy land owners did by defeating the English was to take control of an oppressive system. They had the power, money and resources, so why not? The lower classes needed land, jobs, food and other needs, so exploiting them in the guise of freedom was just an additional plus to defeat the English monarchy. They would talk of doing things for the people; however, they would not give up their authority in the process. Government was just the tool they needed.

Really, how is a democratic government any different from a monarchy or dictatorship? Whoever is in charge, still gets their way. You're still paying taxes, using the English's court system, and are still being treated unequally. Think about the country's presidency. There has never been a colored president Think about crimes and how there are always different punishments for the same offences with the same facts of the case. Think about laws, such as those that govern prisoner litigation and federal habeas corpus proceedings. Look at how toothless these processes have become, and how oppressive in nature that they are. This is calculated to perpetuate their existence – not yours! They'll pretend to be your friend and your ally, they'll smile in your face, and they'll use you to get whatever they want.

Peter Kropotkin felt the same way:

"(T)he State, which was originally designed to be a protection for the weak, has today become a weapon of the rich against the exploited; of the propertied against the propertyless..."

Sean Swain, id. p. 4. Bakunin should be heard as well:

It is obvious that all the so-called general interests of society, which the state is supposed to represent and which are in reality just a general and constant negation of the true interest of regions, communes, associations and individuals subject to the State, are a mere abstraction, a fiction, a lie. The State is like a vast slaughterhouse of an enormous cemetery, where all the real aspirations, all the living forces of a country enter generously and happily, in the shadow of that abstraction, to let themselves be slain and buried...(T)he State has sacrificed the interests of the majority for the benefit of a privileged minority."

Sam Dolgoff, "Bakunin on Anarchism", pp. 269 – 270, quoting Michael Bakunin's 1871, "The Paris Commune and the Idea of the State" (Black Rose Books) (2002). And the government is extorting us on a daily basis; yet, if we would extort them, we would be prosecuted as criminals and labeled as thugs.

Bakunin served in the Russian Army and resigned in 1834. He was a junior officer. Years later, after he became a political leader and philosopher, he was wanted by many countries for his involvement in rebellions. He was first // captured on the evening of May 9, 1849 in Germany, and was sentenced to death on January 14, 1850. In June, his sentence was commuted to a life term, and he was extradited to Austria in March, 1851. There, he was sentenced to hang, but he again got the sentence commuted to a life term. Shortly thereafter, the Austrians handed Bakunin over to Russia. In 1857, Bakunin, after being attacked by scurvy and losing all of his teeth from the disease, was released from prison and sentenced to perpetual exile in Siberia. He didn't stay there, but instead traveled around different countries. He ended up having a wife, and he had ten children: five boys and five girls.

What I admire most about Bakunin was his courage to face oppressors and battle for emancipation. He suffered so much in prison, as I and we incarcerated people are, but he did not give up. He learned many things, and he realized that anarchism was the program for unconditional freedom and equality. Bakunin was an inspiration and example that people can be enlightened and converted into an anarchist mind set from. I just feel so similar to Bakunin because of similar experiences in life. For example, we both were in the military, we both had done hard time in prison, and we both turned into anarchists after being somewhat authoritarian.

When I first started filing lawsuits in 2003, I hardly knew anything. I learned the law the hard way and hands-on. I had some cases dismissed for various reasons, but if I made legal mistakes and the court simply did not railroad me, I learned from the mistakes.

Today, after litigating so much and learning how proper arguments are made, I feel comfortable enough and confident enough, that I can prosecute my claims and win. Don't get me wrong. Winning is still a hard thing to do because the judicial system is a system of adversaries. You still have to convince the judge or jury (who all may be pro-government and anti-prisoner) that you should be granted relief. Getting to a jury trial is also a hard thing to do; especially when the government officials start using dirty tricks against you, and start to retaliate against you because you wish to question their authority, calculated to undermine your legal endeavors and to cause and subject you to court losses.

Currently, I am being physically and mentally tortured by correctional officials and staff. Because I litigate a high quantity of cases, I have become a targeted prisoner. Since October 29, 2003, I have been unreasonably segregated. I was placed in segregation due to a fabricated disciplinary conduct report. One defendant, whom I was suing in a lawsuit, placed me in a situation where my life was in danger, and I was forced to hide a package in my cell. Right after the incident, about a couple hours later, two guards came to my cell and searched it. They found the package, never opened it in front of me, and later I received a disciplinary report for possession of a deadly weapon: the two guards said they found two knives in the package, along with a set of postal scales. Because the burden of proof needed to convict you in a disciplinary proceeding is so low, I could not beat the charge.

I was sent to segregation and a few months later (on February 7 and 8, 2004) the retaliation continued. This time, two guards wrote me up for throwing unknown liquids on them, which I never did, but all it takes to convict you is the guard's word, no matter who testifies for you or what you state at the disciplinary hearing, conducted at the prison and decided by the guard's co-workers.

Chapter 5

What is the State and Government? What Do They Want?

These convictions led me to receiving additional segregation time, and on April 12, 2004, I was transferred from the Indiana State Prison to the Westville Control Unit, located in Westville, Indiana. The Westville Control Unit is a supermaximum control unit, and the prisoners incarcerated therein are locked behind solid steel doors (with a hand-sized, square lexan window centered at eye level) by themselves for 23 – 24 hours a day.

The unit itself, from sky level, looks like a giant cross with octagons connected to the end of each point. These octagons are called “pods” and these pods are where the prisoners are celled. Everything in this control unit is made of steel, concrete blocks and lexan. There are no cameras or recording devices here; albeit, prison staff is working on installing cameras now (finally, after sixteen years without them) and terrible things happen here. (11)

(11) For an excellent report about this unit, see *Human Rights Watch*, “Cold Storage: Supermaximum Confinement in Indiana” (1997).

When a prisoner files a lawsuit against prison officials, and is seeking injunctive relief, e.g., an order from the court making the defendants change conditions of confinement, the prison officials will conspire with each other and have you transferred out of the prison. This is done to escape jurisdiction from the court. If you are only seeking injunctive relief, your lawsuit will be dismissed because injunctive relief is only proper if there is an actual danger of future violations of your rights; past violations, by themselves, will not entitle you to an injunction. See: e.g., *Young v. Lane*, 922 F.2d 370, 374 (7th Cir. 1991). A prisoner who had been transferred out of prison where his rights were violated was not entitled to an injunction unless he could show it was likely he would be transferred back.

Then, after the lawsuit is dismissed, the prison officials will transfer you back to the prison where your rights were violated. This is one little dirty trick they do to prevail in a lawsuit, and is why you seek more than just injunctive relief when you sue. I filed a lawsuit against this control unit in 2005, and this is what the prison officials did to me because I was only suing for injunctive and declaratory relief. I told the state court where I filed my lawsuit the intent of the defendants by transferring me, and before the lawsuit was dismissed, the prison officials goofed and transferred me back here. Despite this, and the record being clear that I was back at the Westville Control Unit, the state court still dismissed the lawsuit, finding I was not at the Westville Control Unit. I’m appealing the decision now, and will get the decision overturned, but these are the type of corrupt things that happen in state courts.

The main tactics prison officials employ are the ones which misuse the disciplinary system. They will fabricate and falsify conduct reports, knowing that you’ll be found guilty, so they can place you in disciplinary segregation. In such places, you endure harsh conditions, loss of privileges, and are subject far more to abusive treatment by staff. Besides this, you cannot physically attend the law library – you are forced to use a cell delivery system for all legal materials and supplies. Mysteriously, your requests don’t get answered, things you wrote to prosecute your lawsuit come up missing and your requests get delayed.

All these things subject you to court losses because you have deadlines set by rules and by the court. This is what the prison officials hope for, and in segregation units, you do not receive any idle pay. You usually cannot get a

To understand what the state and government are, it would be best to reflect on American history.

For many years, most people thought the world was flat; that no other lands existed. After America was discovered, the people came to realize that this wasn’t the case at all. New land sent the world into a frenzy. For some, America meant freedom from the oppressive British rule. To others, America meant wealth. America was everything: land, opportunity and even adventure. Many people wanted to get their share in this new fruitful land, and they came by the thousands across the Atlantic Ocean. They would not be denied the land, and they would even kill for it, and kill they did.

The Native American people were called “Indians” because their physical appearance resembled that of the people of India. They were the first victims of the new settlers of America. The wealthy among these settlers thought of these Native American people as primitive nuisances and knew that these people could be easily conquered. After all, the Native Americans were divided in various tribes of people, possessing primitive weapons like bows and arrows.

The settlers were backed up with military, both English and French and were armed with more destructive weapons such as cannons and muskets. Taking over America was only a matter of time. Soon, too, the settlers would betray their loyalty to English and French rule, and the American Revolution would take place.

This war was inevitable. New land had been surveyed, settled and such people did not want to lose any of their newly gained riches. Statists, such as Patrick Henry (land owner and slave master turned lawyer, Governor of Virginia and main advocate of the U.S. Bill of Rights (13), used their popularity to mold an anti-English rule dissent. This dissent and new rule of the wealthy would forever perpetuate their existence. Federal and state governments were created by them, and it proved to be a powerful system – a system basing freedom on laws!

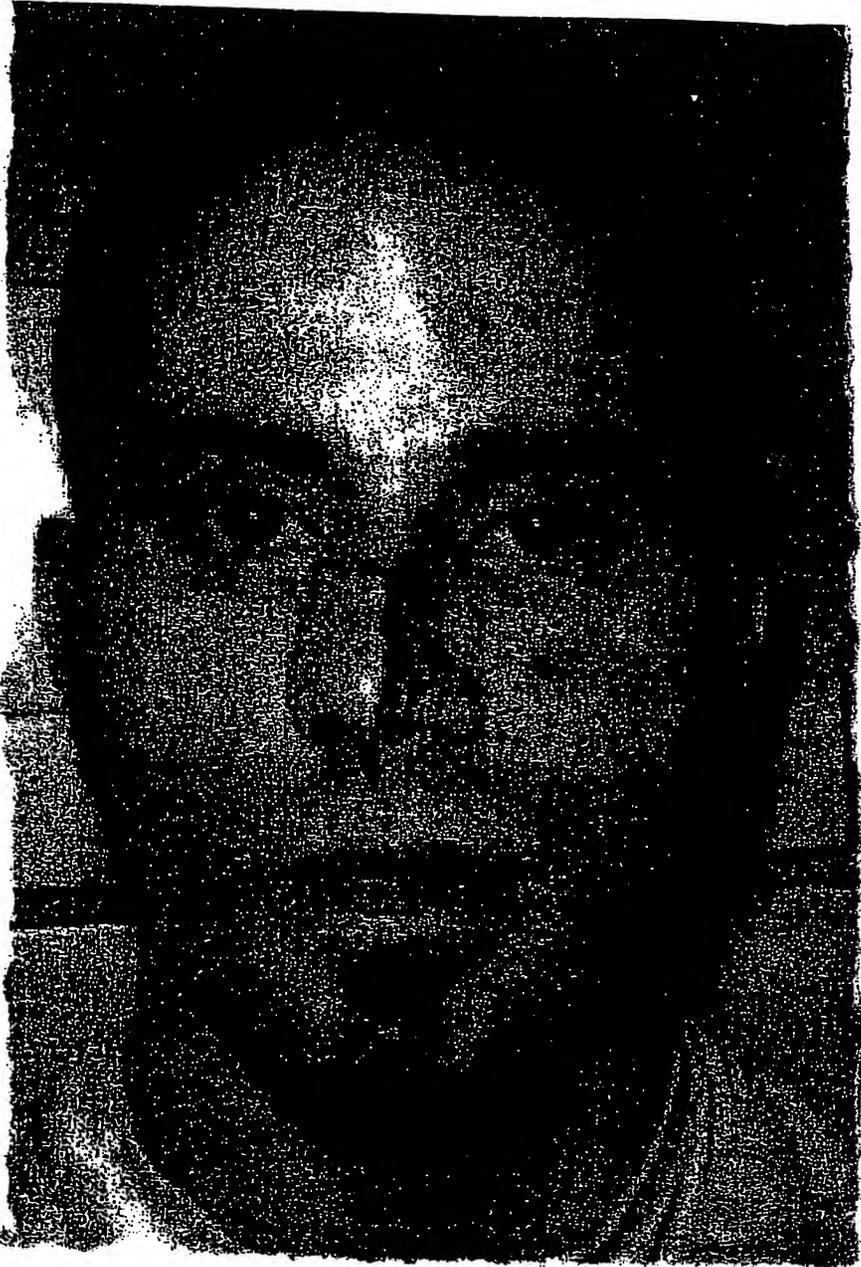
“Government” and “the state” as we hear them are nothing but gang names. They are an “organized authority, domination and power of possessing classes over the masses...” and they “impose themselves upon the masses and force them to obey their decrees.” *Sam Dolgoff*, “Bakunin on Anarchism” pp. 256 (Black Rose Books) (2002).

Like any gang, those possessing classes (all belonging to the upper class) need lower-ranked and expendable members to carry out the dirty work in order for them to maintain the benefits of their structure. These gang members are drawn into service by the grants of special privileges and amenities. They are duly and wholly programmed by the possessing members. In time, these lower-ranked members may even become the leaders of the structure, but they can only exist through each other. Emma Goldman gives some other insight:

“The state and the political and economic institutions that it supports can only exist by fashioning the individual to their particular purpose; training him to

(13) See: *Henry Mayer*, “A Son of Thunder: Patrick Henry and the American Republic” (Grove Press) (1991).

Here is my broken nose, two hours after being maliciously beaten by three officers on March 1, 2005 in retaliation for my lawsuits. I was not resisting and I was in ankle shackles, handcuffed behind my back, and connected to a rope lead. This is what treatment is like here in supermax. I could do nothing except to take the beating. The next day, my eyes were black, too.



prison job, either. This

Mean if you're indigent and do not have loved ones to send you money, you cannot buy stamps to communicate with others to help you prosecute your case. (12)

These are some of the things that prison officials will do to undermine your ability to obtain a successful outcome with your lawsuit in the guise of legitimate goals.

If you have a solid case against the people you are suing and know what you're doing, expect far worse treatment – in addition to being segregated.

What prison officials and staff have done to me in retaliation for my litigation is pretty hard core. First, they buried me in supermax confinement, even though I am not the type of prisoner who belongs in the Westville Control Unit, as Pam Bane, Complex Director for the Westville Control Unit explains:

"The WCU was created to house offenders who require close supervision and tight security to minimize risks to the public, staff and other offenders."

But, I am at the WCU because:

The plaintiff (which is me) needs to fulfill the disciplinary action imposed upon him due to the conduct reports."

Smith v. Indiana Department of Corrections, et. al. case no. 49004 – 0508 – AL – 31239 C Marion County Superior Court no. 4 2005), "Defendant Westville Control Unit's Responses to Plaintiffs First Set of Interrogations and Request for Production of Documents", answers no. 6 and 12 (April 4, 2007).

Since I have been incarcerated in the Westville Control Unit, I have been sent to the hospital twice: once, where three guards beat me up, breaking my nose, as I was in full body restraints and totally defenseless (I'm only 5'4", 135 lbs). (See: photograph no. 3). The other time, I was repeatedly shot with hard pepper ball bullets and twenty times, hanging twenty feet up in the air in a homemade hammock while peacefully protesting against my treatment by prison staff, and maced with five cans of mace. They had no regard if I fell from the hammock onto the concrete floor, but this is how they responded to my protest.

Luckily, I could climb down while being temporarily blind, and I was later taken to the hospital to wash out and clean my wounds from the bullets. There have been exactly four other incidents where staff has maced me and shot me with the pepper ball gun when there was no need to use any force. I still have scars on my back from being shot repeatedly and sadistically by the guards. (See: e.g. photographs 1, 2 & 4).

You name it; it's happened to me in this control unit. I've been beaten by guards, deprived clothing and bedding, legal materials – all kinds of stuff. The conditions in such supermaximum prisons are cruel, inhumane and torturous. There's no better way to explain it. Expect sadism and unlawful actions.

If you become subject to this type of retaliatory treatment, the best thing you can do is get the prisoners to write you sworn declarations (a written statement sworn under the penalty of perjury pursuant to 28 U. S. C. f 1746), stating what they personally witnessed or heard in regards to how you are being abused and mistreated.

(2) In Indiana, the DOC created a policy, stating that if you are trying to obtain representation from an attorney, that they will not provide the postage for the letter, so you must get your own stamps.

File grievances and exhaust all your administrative remedies at all levels in a timely manner, and file more lawsuits. Attach your statements that you collected to the lawsuit and seek a "preliminary injunction" asking the court to protect you from abuse and retaliation.

If you can, write your local civil liberties union, your loved ones, and other support groups along with your state's ombudsman bureau. Tell them what is happening, and see if they can help protect you. In prison, this is all you can do to protect yourself and survive. Be organized and be careful.

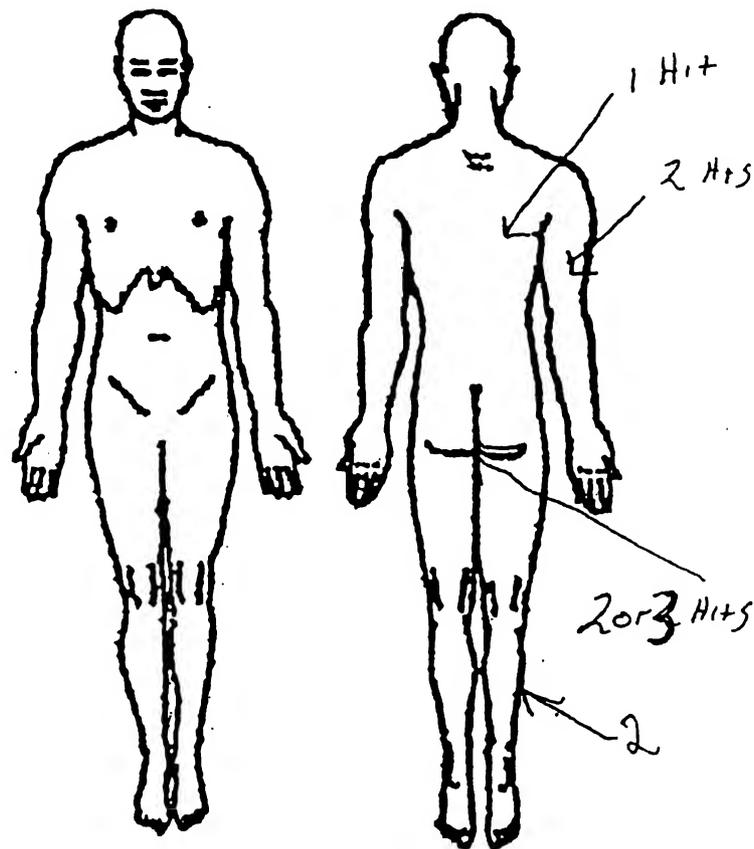


Photograph #1

Here I am being inspected by staff after cleaning up from the use of excessive force at supermax. On June 18, 2004, I was shot with pepper balls (nickel-sized, hard plastic shells with powdered chemicals inside) seventeen times on the back, buttocks and legs while on my stomach on my bed. I was maced, too.

This is the diagram of the I.D.O.C. Pepper Ball Incident Report taken by staff at supermax on June 18, 2004. The markings reflect the shots causing wounds.

Photograph #2



Eric O. Smith (Dawchi)
Doc no. 112675
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SS# 316-82-9627